

REMARKS

Reconsideration is respectfully requested.

Claims 1 through 9 and 24 through 27 remain in this application. Claims 10 through 13 and 18 have been cancelled. Claims 24 through 27 have tentatively been withdrawn. Claims 29 through 34 have been added.

Paragraphs 1 and 2 of the Office Action

Claims 10 through 28 have been withdrawn from consideration.

As noted in the Office Action, applicant timely traversed the restriction (election) requirement with respect to claims 24 through 27.

It is submitted that, while different in scope, the requirement of “a data entry device that facilitates selection of goods for an order by an originating user via a network connection” of claim 1 is sufficiently similar to the “means for generating an order by an originating user on the electronic retail system” requirement of claim 24 that no further searching of the art is necessary. Also, it is submitted that, while different in scope, the requirement of “a notification system that provides a notification to other selected users when an order is placed” of claim 1 is sufficiently similar to the “means for communicating the order to a non-originating user; means for receiving additions to the order from the non-originating user” requirement of claim 24 that no further searching of the art is necessary. And further, while different in scope, the requirement of “an accumulator for accumulating orders from the other selected users for approval by the originating user” of claim 1 is sufficiently similar to the “means for providing the order, including additions to the order, to the originating user for submission as a combined order” requirement of claim 24 that no further searching of the art is necessary.

It is noted that in the in the Office Action requiring the restriction, there is no explicit indication of why the inventions of Groups I and III are

distinct from each other. In fact, the characterizations of the inventions of groups I and III in the Office Action are remarkably similar, if not virtually identical (emphasis added):

3. Inventions Groups I, II, III and Group IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group I has separate utility such as prioritizing service to specific users. See MPEP § 806.05(d).

4. Inventions Group II and Group III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group III has separate utility such as a means for prioritizing orders. See MPEP § 806.05(d).

It is submitted that the distinctions between these characterizations is slight, and is not sufficient to require the restriction of claims 24 through 17 out of the case due to the election of Group I.

Thus, rejoinder and consideration of claims 24 through 27 is respectfully requested.

Paragraphs 3 through 5 of the Office Action

Claims 1 through 9 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Carley et al (U.S. Pat. No. 6,701,345).

Claim 1 requires, in part “a data entry device that facilitates selection of goods for an order by an originating user via a network connection”, “a notification system that provides a notification to other selected users when an order is placed”, and “an accumulator for accumulating orders from the other selected users for approval by the originating user”.

It is contended in the Office Action that:

Carley discloses a data entry device via a network connection, e.g. 135, a notification system, e.g. 410,412, for selection of goods, e.g. medical records.

But it then conceded that "Carley does not disclose the term accumulator".

And it is asserted that:

However, accumulators, along with sending orders in parallel or serial manner, permitting access, tandem browsing, a time period selected by an initial user, have been common knowledge in the art.

Thus, it appears to be conceded that not only does the Carley patent not teach "an accumulator for accumulating orders from the other selected users for approval by the originating user", but that the Carley patent also does not teach that "the order is sent in a serial or parallel manner" (as required by claim 3), or that "the order is sent to other users in a manner that permits the users to access the order" (as required by claim 4), or that "the order is sent to other users by facilitating a tandem browsing session of the order with the originating user" (as required by claim 5), or that "orders are accumulated for a selected period of time" (as required by claim 7).

The contention that these features are "common knowledge" in the applicable art, is challenged, as the rejection of the Office Action does not cite any support for this allegation.

It is then asserted that (emphasis added):

To have provided such for Carley would have been obvious to one of ordinary skill in the art. The motivation for having provided such would have been implementing known technology as a substitute for other similar technology to design a layout of retail system.

However, the text of the rejection does not set forth what similar technology in the Carley system is being "substitute[d] for" by the elements identified above. It is submitted that the Carley does not have "other similar technology" that one of ordinary skill in the art would be motivated to substitute with the allegedly "known technology".

It is submitted that the description in the Carley patent is in fact more likely to lead one of ordinary skill in the art away from these elements, rather than incorporating them. In general, the Carley system is directed to the downloading of data by one or more stations, and not any ordering process in which one or more orders might be placed. More significantly, Carley is primarily directed to detecting, and preventing, the same data from being altered and loaded to the server simultaneously. Illustratively, looking to the Summary of the Invention portion of the Carley patent at col. 4, lines 42, Carley states (emphasis added):

A notification when multiple users attempt to alter the same data may first begin when connections to a plurality of user stations are monitored. An instruction for initiating a load process is received from one of the user stations. Data is downloaded from the one of the user stations to the server. It is determined whether another load process is being concurrently executed by another user station. If it is determined that a load process is being concurrently executed, a notification is sent to the one of the user stations. A notification is also sent to the user station that initiated the concurrently executing load process. Both users are notified to allow them to coordinate their updates so that all alterations to the data are entered. At least one of the load processes is suspended upon detecting the second concurrently executed load process to allow the users time to react to the notification upon it being determined that another load process is being concurrently executed. One of the load processes, all but the first load process, all of the load processes, or any other combination can be suspended. At least one of the load processes may be allowed to continue upon receiving a command to continue from the user station associated with the suspended at least one of the load processes.

First, it is noted that the Carley patent discusses notification of two users when *both* users attempt to alter the *same* data at the *same* time. Further, the Carley system requires that the suspended one of the users has to permit the loading by the other user to proceed.

The rejection further refers to the drawings of the patent at blocks 410 and 412 in Figure 4. However, it is submitted that the portion of the description at col. 14, lines 5 through 24 that is directed to Figure 4 is

highly instructive as to what Carley does and does not disclose (emphasis added):

FIG. 4 is a flowchart illustrating a process 400 for providing a notification when multiple users attempt to alter the same data. In operation 402, connections to a plurality of user stations are monitored. This may be done continuously or at predetermined intervals, for example. An instruction for initiating a load process is received from one of the user stations in operation 404. Data is downloaded from the one of the user stations in operation 406. In this and other embodiments of the present invention, the data may be in the form of files or records, for example. In operation 408, it is determined whether another load process is being concurrently executed. If it is determined that a load process is being concurrently executed, a notification is sent to the one of the user stations in operation 410. A notification is also sent to the user station that initiated the concurrently executing load process in operation 412. Such notifications may include a pop-up window, an email, and/or a facsimile, for example. Both users are notified to allow them to coordinate their updates so that all alterations to the data are entered.

Thus, as can be appreciated from the foregoing, there is no notification in the Carley system *unless* and *until* there is a simultaneous load process of the same data. Otherwise, there is no indication that there is any notification or indication to either or any of the users of any other download. Carley further states at col. 14, lines 25 through 34 (emphasis added):

With continuing reference to FIG. 4, at least one of the load processes is suspended in operation 414 upon detecting the concurrently executed load process to allow the users time to react to the notification. One of the load processes, all but the first load process, all of the load processes, or any other combination can be suspended upon it being determined that another load process is being concurrently executed. At least one of the load processes should be allowed to continue upon receiving a command to continue from the user station associated with the suspended at least one of the load processes. See operation 416.

Again, as noted previously, the Carley system requires that at least one of the load processes be suspended. Since the Carley patent states that if two load processes are occurring and the same time, then “at least one of the load processes is suspended”, it is submitted that one of ordinary skill in the art, considering this statement in Carley, would not find it obvious to implement

“parallel” sending of an order, as Carley clearly seeks to avoid any simultaneous accessing of the data being loaded, to the point of shutting off the access of one (or even all) of the loading processes. Further, one of ordinary skill in the art would not be motivated to implement “tandem browsing” for the same reasoning, as Carley clearly leads one away from any simultaneous action by two or more users of the database.

Also, claim requires “an accumulator for accumulating orders from the other selected users *for approval by the originating user*”, which is completely foreign to the Carley system, as there is no indication that any of the users is provided with any option to approve (or disapprove) of any other “load process”. Thus it is submitted that this is yet another reason why Carley does not anticipate the claimed invention.

Perhaps most importantly, with respect to the alleged obviousness of modifying the Carley system to include the claimed accumulator, it is noted that the Carley system is not directed to accumulating data, but instead is concerned with the orderly alteration of data that is stored on a shared database, by attempting to ensure that the alteration of the data is performed in a serial manner so that the same data is not being simultaneously altered by two different users of the system, which could cause errors in the data. Since the Carley patent is only concerned with simultaneous alteration of the same data, and not with the “accumulation” of data in the database, it is submitted that one of ordinary skill in the art considering the Carley patent would not be led to incorporate an “accumulator”.

Withdrawal of the §103(a) rejection of claims 1 through 9 is therefore respectfully requested.

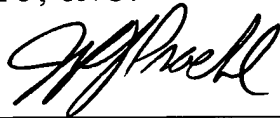
Appln. No. 09/943,883
Amendment dated January 24, 2006
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CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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By 

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